

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions of The Telecommunications Act	)	
of 1996	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	

To: The Commission

COMMENTS OF  
UNITED STATES CELLULAR CORPORATION

Peter M. Connolly  
Holland & Knight LLP  
2099 Pennsylvania Avenue, N.W.  
Washington, DC 20006-6801  
(202) 862-5989

Its Attorneys

May 6, 2002

## TABLE OF CONTENTS

	<u>Page</u>
Summary .....	i
I. The FCC Should Act on the Verizon Petition And Provide an Orderly Schedule For the Imposition of Number Portability Requirements.....	2
II. The Confusion Over The "Top 100" MSAs Provides An Additional Strong Reason For Delay and Reconsideration of This Issue .....	9
III. Number Portability Requirements Should Be Imposed On A Fair And Uniform Basis .....	14
Conclusion .....	15

## SUMMARY

In July, 2001, Verizon Wireless filed a petition requesting that the FCC "forbear" from imposing local number portability (LNP) requirements on wireless carriers. Verizon demonstrated that the costs of such a requirements far exceeded their benefits to the public.

Since that time the case for forbearance has only grown stronger, as carriers have become aware of the technical and system complexities involved in "splitting" the handset "Mobile Identification Number" ("MIN") from the "Mobile Directory Number" ("MDN") and of the threat posed to nationwide enhanced 911 location finding capability by the piecemeal implementation of LNP.

If, however, the FCC chooses not to forbear permanently from the implementation of wireless LNP, it should substantially delay wireless LNP implementation, by one to two years.

In addition to the above reasons for forbearance and/or delay, the present FCC requirements for LNP implementation are confusing and unclear.

Sections 52.31 and 52.20 of the FCC's Rules provide for a request-based system for implementing LNP at specific "switches" within the "top 100" MSAs and a direct linkage between LNP and number pooling capabilities.

In its December 2001 Further Notice of Proposed Rulemaking ("FNPRM") in this proceeding the FCC has proposed to accelerate the timetable for wireless carriers for both pooling and porting capability in the top 100 MSAs to November 24, 2002, without regard to either of those rules or the schedule they contemplate.

Moreover, the FCC has recently adopted another order which allows wireline carriers to implement number pooling in the "top 100" MSAs on a staggered schedule, ending in December 2003. Such disparity is irrational and unfair.

Also, the FCC must rationalize its top 100 MSA list, the recent expansion of which, to include "consolidated MSAs," has vastly enlarged carrier LNP responsibilities without adequate time for compliance or guidance from the FCC.

The FCC should reconsider the entire LNP and pooling regulatory structure and, at the least, delay LNP and pooling requirements until it can develop a rational implementation schedule.

Once such a schedule is developed, USCC would not oppose requiring all carriers in an MSA to implement porting and pooling on an MSA wide basis at such time as it is required.

USCC also endorses a definition of LNP "capability" which provides that carriers be capable of actually "porting" numbers "in" and "out" of a carrier's system, rather than merely having the underlying software in place to do so.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions of The Telecommunications Act	)	
of 1996	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	

To: The Commission

COMMENTS OF  
UNITED STATES CELLULAR CORPORATION

United States Cellular Corporation ("USCC") hereby files its comments on the Further Notice of Proposed Rulemaking issued in this proceeding.<sup>1</sup>

USCC provides cellular and PCS services in 44 MSA, 100 RSA and 15 BTA markets. It thus has a large stake in any action taken by the FCC with respect to the imposition of local number portability ("LNP") responsibilities on wireless carriers.

---

<sup>1</sup> In the Matter of Numbering Resource Optimization, Implementing Local Competition Provisions of the Telecommunications Act of 1996, Telephone Number Portability, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116, FCC 02-73 released March 14, 2002 ("FNPRM").

I. The FCC Should Act on the  
Verizon Petition And Provide an  
Orderly Schedule For the  
Imposition of Number Portability  
Requirements.

On July 26, 2001, Verizon Wireless filed a "Petition For Partial Forbearance From The Commercial Mobile Radio Services Number Portability Obligation" (WT Docket 01-184). The Verizon petition and the supporting comments filed by other wireless carriers made a strong case that the FCC should forbear from imposing LNP requirements on wireless carriers or, in the alternative, should grant a substantial 1-2 year delay in the imposition of such requirements.

As the Verizon petition demonstrated, the LNP mandate will impose complex technical burdens and large expenses which are not justified by their benefits to competition. Verizon and its supporters showed that LNP is not necessary to protect against unreasonable rates, terms and conditions, or to protect subscribers, which are the standards for "forbearance" under Section 10 of the Communications Act.

On the contrary, wireless rates have fallen and the industry is, by every measurement, very competitive and growing more competitive all the time. Given the other, more important mandates which wireless carriers are attempting to meet, such as CALEA and E-911 requirements, the LNP mandate should be eliminated or delayed.

Since that time, the case for forbearance or delay has only grown more compelling, as carriers have become aware of the technical and systemic

complexities involved in "splitting" the handset "Mobile Identification Number" ("MIN") from the "Mobile Directory Number" (MDN), which will be required to implement LNP.

Also, as has recently been pointed out by public safety organizations, imposition of LNP requirements on wireless carriers on the presently contemplated schedule will pose a substantial threat to nationally available "enhanced 911" location finding capability. Such carriers have asked for at least a six month delay in the imposition of LNP requirements.<sup>2</sup>

Moreover, the FCC's requirements for LNP implementation by CMRS carriers are unclear, confusing and potentially contrary to the FCC's own regulations. If LNP is to be required of CMRS carriers, the FCC must establish a reasonable and clear schedule for its deployment, and one in conformance with its published rules.

In December 2001, the FCC adopted an order in this proceeding which, inter alia, purported to "clarify" that LNP and number pooling requirements would

"extend to all carriers in the largest 100 MSAs, regardless of whether they have received a specific request to provide LNP from another carrier."<sup>3</sup>

---

<sup>2</sup> See "Public Safety Groups Back Six Month Wireless LNP Delay," Telecommunications Reports, May 6, 2002, p. 23.

<sup>3</sup> In the Matter of Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Telephone Number Portability, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in Docket No. 99-200, 17 FCC Rcd 252, ¶ 124 (2001) ("Third Report and Order").

This newly announced requirement, which was to take effect on November 24, 2002, did not repeal or even take notice of either Section 52.31(a) or Section 52.20 of the FCC's Rules.

Section 52.31(a),<sup>4</sup> provides, in pertinent part, that CMRS carriers must "provide a long term database method for number portability" in the MSAs

---

<sup>4</sup> Section 52.31(a) states as follows:

§52.31 Deployment of long-term data-base methods for number portability by CMRS providers.

(a) By November 24, 2002, all covered CMRS providers must provide a long-term database method for number portability, including the ability to support roaming, in the MSAs identified in the Appendix to this part in compliance with the performance criteria set forth in section 52.23(a) of this part, in switches for which another carrier has made a specific request for the provision of number portability, subject to paragraph (a)(1) of this section. A licensee may have more than one CMRS system, but only the systems that satisfy the definition of covered CMRS are required to provide number portability.

(1) Any procedure to identify and request switches for development of number portability must comply with the following criteria:

(ii) Any wireline carrier that is certified (or has applied for certification) to provide local exchange service in a state, or any licensed CMRS provider, must be permitted to make a request for deployment of number portability in that state;

(ii) For the MSAs identified in the appendix to this part, carriers must submit requests for deployment by February 24, 2002;

(iii) A covered CMRS provider must make available upon request to any interested parties a list of its switches for which number portability has been requested and a list of its switches for which number portability has not been requested;

(iv) After November 24, 2002, a covered CMRS provider must deploy additional switches serving the MSAs identified in the Appendix to this part upon request within the following time frames:

(A) For remote switches supported by a host switch equipped for portability ("Equipped Remote Switches"), within 30 days;

(B) For switches that require software but not hardware changes to provide portability ("Hardware Capable Switches"), within 60 days;



identified in the "appendix" to that rule part only upon "request" that LNP be provided in a given "switch" within an MSA.

Thus, for LNP to be provided at a given "switch" by November 24, 2002, a request had to have been submitted by February 24, 2002. To USCC's knowledge, no such requests were sent. The next available opportunity to make a request for LNP deployment at a given switch would be after November 24, 2002, with LNP to be provided on the schedule described in Section 52.31(a)(1)(iv).

Further, Section 52.20 (b) of the FCC's Rules<sup>5</sup> makes it clear that the requirement of providing number "pooling" only applies to carriers "capable of

---

(C) For switches that require hardware changes to provide portability ("Capable Switches Requiring Hardware"), within 180 days; and

(D) For switches not capable of portability that must be replaced ("Non-Capable Switches"), within 180 days.

(iv) Carriers must be able to request deployment in any wireless switch that serves any area within the MSA, even if the wireless switch is outside that MSA, or outside any of the MSAs identified in the Appendix to this part.

<sup>5</sup> Section 52.20 of the FCC's Rules provides as follows:

§52.20 Thousands-block number pooling.

(a) *Definition.* Thousands-block number pooling is a process by which the 10,000 numbers in a central office code (NXX) are separated into ten sequential blocks of 1,000 numbers each (thousands-blocks), and allocated separately within a rate center.

(b) *General requirements.* Pursuant to the Commission's adoption of thousands-block number pooling as a mandatory nationwide numbering resource optimization strategy, all carriers capable of providing local number portability (LNP) must participate in thousands-block number pooling where it is implemented and consistent with the national thousands-block number pooling framework established by the Commission.

(c) *Donation of thousands-blocks.* (1) All service providers required to participate in thousands-block number pooling shall donate thousands-blocks with ten percent or less contamination to the thousands-block number pool for the rate center within which the numbering resources are assigned.

(2) All service providers required to participate in thousands-block number pooling shall be allowed to retain at least one thousands-block per rate center, even if the thousands-block is ten percent or less contaminated, as an initial block or footprint block.

providing local number portability (LNP)." Moreover, pursuant to that rule, number pooling implementation must be "consistent with the national thousands-block number pooling framework established by the Commission."

Though it did not refer to either actual rule, the "rule" established by the FCC in the Third Report and Order, which purported to require CMRS carriers to establish pooling and porting in the "top 100" MSAs by November 24, 2002, flatly contradicted both rules actually on the books, which provided for implementation of porting at individual switches following "requests" and implementation of pooling in conjunction with porting.

The issuance of the Third Report and Order was the occasion of considerable concern and puzzlement on the part of CMRS carriers, and, finally, in March 2002, the FCC issued the FNPRM. In the FNPRM, without referring to Sections 52.31, 52.20 or any other relevant rule, the FCC:

"revise[d] its clarification and provide[d] interested parties an opportunity to comment on whether carriers should be required to deploy and participate in thousands-block pooling in the 100 largest MSAs, regardless of whether they have received a specific request to provide LNP from another carrier."

FNPRM, ¶5.

---

(d) *Thousands-Block Pooling Administrator*. (1) The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunication industry segment, and shall comply with the same neutrality requirements that the NANPA is subject to under this part.

(2) The Pooling Administrator shall maintain no more than a six-month inventory of telephone numbers in each thousands-block number pool.

The FCC apparently contemplates that sometime this fall, following the receipt of comments on this issue, and without regard to the above-mentioned rules providing for phased in, request-based LNP/pooling implementation, it will, by order, decree the full implementation of LNP and thousands block pooling in all "top 100" MSAs by November 24, 2002.

Such an outcome would, however, not only be unfair to carriers which relied on the rules for the past few years, it would also assume that the Verizon petition will be denied. However, it is evidently the case that the FCC is considering granting at least some delay in porting (if not pooling) requirements.<sup>6</sup>

Finally, to add to the confusion, the FCC recently issued an order adopting a national MSA "thousand blocks number pooling schedule" for the remainder of 2002 and 2003.<sup>7</sup> The schedule lists the MSAs in which pooling must be implemented in each "quarter." The first quarterly implementation period listed in that order begins on June 15, 2002 and ends on September 14, 2002, and the last period listed begins on September 15, 2003 and ends on December 14, 2003. The FCC, however, reiterates in the April Pooling Order that wireless carriers must implement pooling in the top 100 MSAs by November 24, 2002.<sup>8</sup>

---

<sup>6</sup> See, e.g., "Martin May Move to Shorten Wireless LNP Delay," RCR Wireless News, p.1, March 25, 2002.

<sup>7</sup> In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, DA 02-948, Order, released April 24, 2002. ("April Pooling Order").

<sup>8</sup> April Pooling Order, supra, at ¶ 6.

Thus, under one reading of what is proposed in the FNPRM, wireless carriers in Oklahoma City, OK, a "top 100" MSA, would have to become pooling and porting "capable" on November 24, 2002. However, wireline carriers would not have to be pooling capable in the MSA until December 14, 2003, since Oklahoma City is in the last "quarter" of the pooling schedule approved in the April Pooling Order.

What sense does it make to require an Oklahoma City MSA CMRS carrier to be pooling and porting capable on November 24, 2002 but not require pooling capability of its wireline competitor? Apart from the unfairness of that disparity, how can pooling or porting work in an MSA if only CMRS carriers are capable of it?

As noted previously, USCC believes that the FCC should forbear permanently from imposing LNP requirements on wireless carriers. If, however, the FCC determines that it should impose such requirements, it should delay their imposition until it can be determined that the network architecture "works" to implement pooling and porting for same market by wireline and wireless carriers.

We submit that it would be reasonable to allow wireless carriers to implement pooling on the same "staggered" schedule that wireline carriers are granted under the April Pooling Order and the prior December, 2001 "First Quarter Schedule For National Thousands-Block Number Pooling."<sup>9</sup>

Such an action would also prove to be beneficial from the standpoint of consumers of wireless service. A staggered schedule would allow inevitable

---

<sup>9</sup> See Public Notice, "The Common Carrier Bureau Announces The First Quarter Schedule For National Thousands-Block Number Pooling," DA 01-3019, released December 28, 2001. For wireless carriers all pre-November 24, 2002 deadlines would be made November 24, 2002.

technical problems to be worked out in a limited number of markets, without placing at risk the stability of the network on a national basis.

Following the rollout of market by market pooling capability pursuant to that schedule, and the working out of any technical difficulties, the FCC could, if it chose, impose wireless LNP requirements beginning in 2004. That type of schedule would clarify carrier obligations, allow adequate time for the resolution of any network implementation problems, including the provision of 911 and other services, and then allow LNP to be implemented without disruption of service to the public.

## II. The Confusion Over The "Top 100" MSAs Provides An Additional Strong Reason For Delay and Reconsideration of This Issue

As present, it is impossible for wireless carriers to determine with any degree of precision the "MSAs" in which they may have to be pooling and porting "capable" by November 24, 2002. Further, every time the FCC has attempted to "clarify" the "top 100" MSA issue in this proceeding, it has only compounded the confusion. This constitutes an additional reason for delay while this crucial issue is finally sorted out.

In clarifying the nature of the problem, it may be best to begin with a brief discussion of cellular and PCS carrier service areas. Cellular carriers serve Metropolitan Statistical Areas ("MSAs") and in, New England, New England County Metropolitan Areas ("NECMAs"), as well as Rural Service Areas ("RSAs"). PCS licenses serve Major Trading Areas ("MTAs") or Basic Trading Areas ("BTAs").

All of those CMRS service areas are defined by the counties comprising them and the county definitions were fixed permanently at the time the licensing rules for each service were adopted. For the cellular service, the definitions were fixed in 1982 and 1984 (MSAs and MECMAs) and 1988 (RSAs).<sup>10</sup> In the broadband PCS Service, the market areas were defined in 1994.<sup>11</sup> Thus, though the Census Bureau may have later moved counties into or out of MSAs or changed its MSA definitions by creating "consolidated" MSAs, the FCC service area definitions did not change.

The specificity and permanence of these service area definitions have had many good effects, with the best one perhaps being that no cellular or broadband PCS carrier has ever had any reason not to know the boundaries of the area in which it was responsible for providing service.

However, the FCC's definitions of the "MSAs" in which LNP is to be provided by wireless (and other) carriers have never enjoyed comparable clarity and the consequences of that lack of clarity are about to become apparent.

Pursuant to Section 52.31(a) of the FCC's Rules, "covered" CMRS carriers are required to provide number portability in the top 100 "MSAs" identified in the "Appendix" to Part 52 of the Rules. That top 100 list was adopted in 1997, in connection with wireline LNP. The appendix lists "MSAs" but does not define them

---

<sup>10</sup> See, e.g. Public Notice, "Commission Announces Cellular Markets Beyond 90 Largest," Report No. CL-69 released May 24, 1984; Public Notice, "Listing of Cellular Rural Service Areas With Component Parts," Report No. CL-88-110, released May 19, 1988.

<sup>11</sup> See Section 24.102 of the FCC's Rules, originally adopted in 1994, which refers to MTAs and BTAs as defined specifically by county, in the 1992 Rand McNally Commercial Atlas and Marketing Guide, at pages 38-39.

by county or other jurisdiction. Nor does it refer to a particular source from the Census Bureau or elsewhere which contains such a definition.

As the years have passed, counties have been dropped from or added to MSAs, and MSAs have moved into or dropped out of the category of "top 100" MSAs owing to different rates of population growth. Cellular "MSAs," for example, whose definitions were fixed in 1982 (based on the 1979 Statistical Abstract of the United States) and 1984, are obviously, in many instances, quite different from the "MSAs" referred to in the Appendix to Part 52, which will create difficulties for carriers in complying with "MSA" mandates. Recent FCC actions have added to those difficulties.

In the Third Report And Order, issued in December 2001, the FCC "clarified" that the "top 100" MSAs include those MSAs listed in the Appendix to Part 52 as well as "all areas included on any subsequent top 100 MSA list." Third Report And Order, ¶124.

The 1997 MSA list was drawn from the 1990 Census. But subsequent to 1990, several MSAs on the "top 100" list were combined into Consolidated Metropolitan Statistical Areas ("CMSAs"); to which LNP/pooling requirements are also to be applied. Also, the FCC noted that several "new areas and MSAs" are now to be included on the list of the 100 largest MSAs. Ibid, at ¶126.

Finally, the FCC refused in the Third Report and Order to "delete any areas" that once had been but no longer were included in the list of "top 100" MSAs,

The FCC, in Appendix D to the Third Report and Order, provided an updated list of the top 100 MSAs, including many CMSAs, though it did not provide a Census Bureau or other source for the list. However, when the 1997 and 2001 MSA lists are compared and then the new list is matched against recent Census Bureau definitions of CMSAs and MSAs, it is clear that the new list enormously expands the former list without any clear notice to carriers of what will be involved.

Under the 1997 list appended to Part 52, USCC would provide cellular service in all or part of three of the "top 100" MSAs. However, under the new list, with its many "consolidated" MSAs, USCC provides cellular service in all or part of 18 of the "top 100" MSAs, though often in small parts of them. For example, USCC provides cellular service in the Manchester, New Hampshire NECMA, comprised of Hillsborough County and New Hampshire RSA #2, comprised of Carroll, Belknap and Merrimack counties. Neither Hillsborough nor any of the New Hampshire RSA #2 counties are included within any "top 100" MSA. However, Hillsborough and Merrimack counties are included within the "top 100" Boston CMSA, which means that USCC would now have to provide porting and pooling within those counties in November 24, 2002 if the FCC adopts the proposal in the FNPRM.

The story is similar with respect to USCC's cellular service in the Kenosha, Wisconsin MSA (Kenosha County) and Illinois RSA #1, comprised of Jo Daviess, Stephenson, Carroll, Ogle, De Kalb, Whiteside and Lee counties. Kenosha and De Kalb counties are included in the "top 100" Chicago CMSA.



Against a background where the relevant rules remain unchanged and the FCC is still considering whether to impose an "automatic" porting requirement without regard to requests for porting, such an expansion of the "top 100" MSAs at this late stage in the process is both unworkable and unfair.

It is one more reason whether FCC should call at least a temporary halt to this process.

The FCC (FNPRM, ¶10) asks whether the additional counties included in CMSAs should be included in LNP and pooling requirements. They certainly should not be, at least as part of the "top 100" MSAs, in which such requirements will be initially applicable.

What has been needed for the past eight years and what is still needed is a definitive top 100 MSA (not CMSA) list, which also lists the affected counties. Only when such a list is issued will CMRS carriers be fairly apprised of what their obligations will be.

Of equal importance in clarifying carrier obligations would be a related list of "rate centers" within such counties in which porting will be required and available. A list of MSAs and counties would be very useful for all the reasons given above. However, that list, without a list of applicable rate centers, would still require a laborious and uncertain exercise by which CMRS carriers would have to determine which rate centers were potentially affected within the relevant MSAs. This process involves overlaying county and rate center map boundaries to determine which rate centers overlap, and to what extent, the counties in which porting is

required. In many cases, such overlapping areas can be extremely small geographic areas, leading to additional ambiguity.

The April Pooling Order refers frequently to rate centers and their importance. The FCC should apply that insight to defining the areas in which wireless carriers, which have never had to deal with "rate centers," must pool and port numbers.

Having defined the areas in which LNP and pooling must be provided, the FCC then must give carriers an adequate time to comply with LNP and pooling requirements. It can do so in the context of action on the Verizon forbearance petition.

### III. Number Portability Requirements Should Be Imposed On A Fair And Uniform Basis

As discussed above, the FCC should pause to reconsider the entire structure of its LNP and porting rules and should delay their effective dates. We have suggested above that the FCC do so by requiring that pooling be implemented on a staggered schedule in the top 100 MSAs and that porting requirements be imposed, if at all, after the pooling rollout is completed. Within that context, USCC provides the following views on the specific matters concerning which the FCC has requested comments.

The FCC has sought comment on whether the provision of number portability in a given MSA should be dependent on the receipt of a request for LNP from a competing carrier (FNPRM, ¶7). Again, assuming adequate time has been provided

for compliance, USCC would have no objection to a rule which required all wireline and wireless carriers providing service in all or part of an MSA to be LNP "capable" by a certain date. By "capable," we would mean actually able to port numbers "in" and "out" of a carrier's system, not merely having the underlying "software" in place to do so. Making porting dependent on random "requests" would ill serve the public interest. Once porting has to be provided, all covered CMRS and wireline carriers serving all or part of a given MSA should be obligated to port numbers throughout their service areas.<sup>12</sup> USCC also sees no need to exempt "small carriers" from those requirements.

USCC also submits that it probably would make the most sense to establish a fixed, "phase in" schedule for all carriers, wireless and wireline, within which to implement pooling in the top 100 MSAs, in conjunction with the schedule already set out in the April Pooling Order. USCC agrees with the pro-pooling arguments summarized in Paragraph 9 of the FNPRM but does not believe that wireless carriers should have to become pooling capable any faster than wireline carriers.

### Conclusion

The FCC is obliged to clarify its rules and policies concerning porting and pooling by wireless carriers to make them clear and comprehensible. The FCC should also delay implementation of its pooling and porting requirements, for

---

<sup>12</sup> We again note that carriers should be given a reasonable time, at least 1-2 years, to accomplish this following the establishment of number pooling on a staggered schedule.

CMRS carriers, along the lines described above, so that carriers may be given a reasonable time to comply with the requirements once they are in place.

Respectfully submitted,

UNITED STATES CELLULAR CORPORATION

By /s/ Peter M. Connolly  
Peter M. Connolly

Holland & Knight LLP  
2099 Pennsylvania Avenue, N.W. #100  
Washington, DC 20006-6801  
(202) 862-5989

Its Attorneys

WAS1 #1082422 v2